



सत्यमेव जयते

महाराष्ट्र शासन राजपत्र

असाधारण भाग चार-क

वर्ष ९, अंक १८ (५)]

गुरुवार, फेब्रुवारी २३, २०२३/फाल्गुन ४, शके १९४४

[पृष्ठे १०, किंमत : रुपये १.००

असाधारण क्रमांक २७

प्राधिकृत प्रकाशन

महाराष्ट्र शासनाव्यतिरिक्त इतर वैधानिक प्राधिकाऱ्यांनी तयार केलेले

(भाग एक, एक-अ व एक-ल यांमध्ये प्रसिद्ध केलेले वैधानिक नियम व आदेश यांव्यतिरिक्त इतर)

वैधानिक नियम व आदेश; यात भारत सरकार, उच्च न्यायालय, पोलीस आयुक्त, आयुक्त (राज्य उत्पादन शुल्क), जिल्हादंडाधिकारी व निवडणूक आयोग, निवडणूक न्यायाधिकरण, निवडणूक निर्णय अधिकारी व निवडणूक आयोगाखालील इतर प्राधिकारी यांनी तयार केलेले वैधानिक नियम व आदेश यांचा समावेश होतो.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road,

New Delhi 110 001, dated the 27th September, 2022
5 Asvina, 1944 (Saka)

NOTIFICATION

No. 82/MT-HP/16/2019.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the judgment/order dated 14th February 2020 of the High Court of Judicature at Bombay in Election Petition No. 16 of 2019.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ELECTION PETITION NO. 16 OF 2019

Aslam Badshahji Sayyed

...Petitioner

Versus

The Election Commission of India & Ors.

...Respondents

WITH

APPLICATION IN ELECTION PETITION (L) NO. 5 OF 2020

Dhairyasheel Samohajirao Mane

...Applicant

In the matter between

Aslam Badshahji Sayyed

...Petitioner

Versus

The Election Commission of India & Ors.

...Respondents

Mr. Sandeep Rankhambe, for the Petitioner.

Mr. R.J. Mane, AGP, for the Respondent No. 2-State.

Mr. S.R. Ganbavle, a/w Mr. Sanjay Gawade, for Respondent No. 3.

CORAM : R.I. CHAGLA J.

DATE : 14 February 2020

ORDER :

1. By an order dated 16th January 2020, the Application

taken out by the Applicants/Respondents No. 1 and 2 in the Election Petition viz. the Election Commission of India and the Returning Officer for their deletion as parties, was allowed by this Court. In so allowing the Application it was recorded that the Petitioner shall carry out appropriate amendment by deleting Respondents No. 1 and 2 in the Election Petition as well as consequential amendments. This was to be carried out within a period of one week from the date of the order.

2. On 31st January 2020, the learned Counsel for the Petitioner had sought an extension of time to carry out the amendment. This was vehemently opposed by the learned Counsel for the Respondent No. 3. It was accordingly, recorded by this Court that an extension of time of one week is granted as and by way of last opportunity and if the Petitioner does not carry out the requisite amendment in the Election Petition within the period of one week from the date of this order, the Election Petition shall be dismissed without further reference to the Court.

3. Today, the learned Counsel for the Petitioner has requested for further extension of time to carry out the amendment

by stating that the Petitioner had been hospitalised and hence, was unable to comply with the previous order dated 31st January 2020.

4. Considering that this is a self operative order, the Election Petition as well as the Application taken out by the Respondent No. 3 stands dismissed without further reference to the Court, the oral application made by the Advocate for the Petitioner cannot be considered.

5. The learned Counsel for the Respondent No. 3 submits that this Court should not entertain any application if filed for restoration of the Election Petition. He has submitted that the order passed by this Court on 31st January 2020 is an order under Section 98(a) of the Representation of the People Act, 1951. He has submitted that Section 98(a) of the said Act makes it clear that at the conclusion of the trial of an Election Petition this Court shall make an order dismissing the Election Petition. The Election Petition cannot be restored once such an order is passed. He has submitted that the said Act is a special Act and this Court only has power to determine the Election Petition within the ambit of the said Act.

6. He has further relied upon Section 107 of the said Act which provides that subject to the provisions contained in Chapter IV-A relating to the stay of operation of the order of this Court under Section 98 or Section 99, every such order shall take effect as soon as it is pronounced by the High Court. He has thus, submitted that the order dated 31st January 2020 had taken effect on that date when the order was pronounced by this Court.

7. The above submissions of the learned Counsel for the Respondent No. 3 shall be taken into consideration, in the event of an application being filed by the Petitioner for restoration of the Election Petition.

[R.I. CHAGLA J.]

By order,

S. K. DAS,
Secretary,
Election Commission of India.

भारत निर्वाचन आयोग

निर्वाचन सदन, अशोक रोड,

नई दिल्ली 110 001, तारीख 27 सितम्बर, 2022
5 अश्विन, 1944 (शक)

अधिसूचना

सं. 82/महा.-लो.स./16/2019.— लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, भारत निर्वाचन आयोग एतद्द्वारा वर्ष 2019 की निर्वाचन याचिका संख्या 16 में बम्बई उच्च न्यायालय के निर्णय/आदेश दिनांक 14 फरवरी 2020 को प्रकाशित करता है।

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3. Today, the learned Counsel for the Petitioner has requested for further extension of time to carry out the amendment

by stating that the Petitioner had been hospitalised and hence, was unable to comply with the previous order dated 31st January 2020.

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6. He has further relied upon Section 107 of the said Act which provides that subject to the provisions contained in Chapter IV-A relating to the stay of operation of the order of this Court under Section 98 or Section 99, every such order shall take effect as soon as it is pronounced by the High Court. He has thus, submitted that the order dated 31st January 2020 had taken effect on that date when the order was pronounced by this Court.

7. The above submissions of the learned Counsel for the Respondent No. 3 shall be taken into consideration, in the event of an application being filed by the Petitioner for restoration of the Election Petition.

[R.I. CHAGLA J.]

आदेश से,

एस. के. दास,

सचिव,

भारत निर्वाचन आयोग।

क्रमांक ईपीटी-२०२२/प्र.क्र. ६३४/२२/३३

सामान्य प्रशासन विभाग

मादाम कामा मार्ग,

हुतात्मा राजगुरु चौक,

मंत्रालय विस्तार, मुंबई ४०० ०३२,

दिनांक २३ फेब्रुवारी २०२३.

प्रत, माहितीसाठी व योग्य कार्यवाहीसाठी अग्रेषित :-

- (१) प्रधान सचिव, महाराष्ट्र विधानमंडळ सचिवालय, विधान भवन, मुंबई,
- (२) सर्व जिल्हाधिकारी तथा जिल्हा निवडणूक अधिकारी,
- (३) निवडनस्ती.

अ. अ. खोचरे,

कक्ष अधिकारी.